An Coimisiún Pleanála

Commission Order

PL-500971-DF

Planning and Development Act 2000, as amended

Planning Authority: Fingal County Council

Planning Register Reference Number: FW25A/0416E

Appeal by Frances and David McLelland against the decision made on the 12th day of February, 2026 by Fingal County Council to grant subject to conditions a permission to J&C Porterstown Road Development Company Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of a vacant dwelling and outbuildings (circa 207 square metres) and the construction of a creche (circa 275 square metres) and 87 residential units comprising eight number three-storey houses (three-bed units) and 79 number apartments (29 number one-bed units and 50 number two-bed units) in two number blocks, whereby Block A is part four to part five storeys and Block B is five storeys. The development also proposes a new vehicular access and pedestrian/cycle access off Porterstown Road, the provision of 49 number car parking spaces, bicycle parking spaces, motorcycle parking spaces, bin stores and ancillary storage space, a single storey facilities building, balconies and terraces, hard and soft landscaping,

boundary treatments, ESB sub-station and switch room, green/blue roof, and all associated site works above and below ground. Works are also proposed to connect new wastewater and stormwater pipes to the existing sewer along Porterstown Road and the provision of a new pedestrian and cycle ramp between the north-east corner of the site and Diswellstown Road. The total site area, including the development site and infrastructural works, measures circa 0.97 hectares, all on a site at Porterstown Road, Porterstown, Dublin.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the policies, objectives and provisions of the Fingal Development Plan 2023-2029, including the 'RS Existing Residential' land use zoning objective for the area, which seeks to provide for residential development and to protect and improve residential amenity, as well as the relevant provisions of the Sustainable Residential Development and Compact Settlements Guidelines (2024), and the Design Standards for New Apartments Guidelines (2025), and having regard to the nature, scale, form, height, layout and design of the proposed development, the surrounding environment, including heritage features within and near the site, and the pattern of development in the area, on balance it is considered that, subject to compliance with the conditions set out below, the proposed development would generally align with the provisions of the Fingal Development Plan

2023-2029 and the provisions of relevant national guidelines, would not impact unduly on residential or visual amenities, or on the character of the area and the local environment, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission noted the Inspector's opinion that the demolition of Keane's Cottage, which is not a recorded protected structure, would materially contravene Policy HCAP21 (Built Heritage Assets), Policy HCAP22 (Retention and Reuse of Existing Building Stock) and Policy HCAP23 (Heritage-led Regeneration). These policies, which are considered reasonable, are not, however, definitively prohibitive in wording, and the Commission noted that they allow for an overall judgement to be made on the balance of presented evidence, and also having regard to the full range of applicable development plan provisions. On the facts of the case, the Commission determined that, while a contravention of these objectives might be considered to arise, it would not constitute a material contravention. In this case the Commission determined (in agreement with the overall conclusion of the Inspector) that the proposed development would broadly align with the totality of the relevant provisions of the development plan, and that, although parts of the vernacular structure proposed for demolition may be considered of notable character, nevertheless, the structure could not be considered to be of such value or significance, nor its contribution to the wider area of such significance, as to warrant a refusal of permission for its proposed demolition.

Furthermore, the Commission noted the opinion of the Inspector that the extent of the shortfall in the area of proposed public open space would materially contravene Objective DMSO51 (Minimum Public Open Space Provision) and Objective DMSO52 (Public Open Space Provision). The Commission considered the wording of these development plan objectives, together with Objective DMSO50 (Monetary Value in Lieu of Play Facilities) and Table 14.12 which recommends minimum public open space standards. The Commission considered these objectives to be reasonable, and noted that the wording of these objectives, taken in totality, are not definitively prescriptive, and they allow for an overall judgement to be made on the balance of the presented evidence. The Commission noted that the development plan seeks to 'Target minimum amount of 15% except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply', and that, in accordance with Objective DSMO53, the planning authority has the discretion to accept a financial contribution in lieu of the remaining open space requirement, to allow provision by the planning authority for the acquisition of additional open space, or the upgrade of existing parks and open spaces. On the facts of the case, the Commission determined that, while the proposed development might be considered to contravene the development plan's objectives for public open space, it would not constitute a material contravention, and the Commission determined (in agreement with the overall conclusion of the Inspector) that the proposed development would be in accordance with the totality of the relevant provisions of the development plan. Having regard, therefore, to the specific facts of the case, and to the scale, quality, form and layout of the public open space proposed in the planning application, and noting that the application of a contribution in lieu is a discretion, the

Commission considered that the shortfall in the target minimum of 15% public open space, as set out in Objective DMS052 of the Fingal County Development Plan 2023-2029, can be met by an 'in lieu' contribution from the applicant, and that such a contribution in lieu is warranted in this instance, by reference to Objective DMS053.

The Commission noted the Inspector's recommendation for an additional parking space or set-down area to be provided for the creche from within the proposed layout and parking provision. The Commission noted the proposed three number classrooms within the creche, and the provisions of Table 14.19 (Car Parking Standards) of the development plan, which specifies a maximum of 0.5 spaces per creche-classroom. Having regard, however, to the proposed retention of ownership of all parking spaces by the management company, in order to provide for the necessary flexibility of use, the Commission did not consider it appropriate to apply a condition for the provision of an additional parking space or set-down area for use by the creche.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 14th day of January, 2026, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.
   Reason: In the interest of clarity.

2. This permission is for 87 number residential units and a creche.
   Reason: In the interest of clarity.

3. A full architectural and photographic survey of all buildings or elements of buildings proposed for demolition shall be carried out, and drawings and photographs indicating details of these buildings, to a scale acceptable to the planning authority, shall be submitted to the planning authority prior to commencement of development. Two copies of this record shall be submitted to the planning authority prior to commencement of development.
   Reason: In order to facilitate the preservation by record and/or recording of the architectural heritage of the site.

4. All roads and footpaths and cycleways shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction, including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing and revised taking in charge drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
Reason: In the interest of permeability and proper planning and sustainable development.

5. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998 shall apply. Following completion, the proposed development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.
Reason: To ensure that the proposed development is carried out and completed to an acceptable standard of construction.

6. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards as outlined in the Design Manual for Urban Roads and Streets (DMURS). Details of all locations and materials to be used shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) The pedestrian and cycle link from the proposed development to Diswellstown Road shall not be gated and shall remain open to the public.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. (a) The proposed development shall be carried out on a phased basis in accordance with a final phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Prior to commencement of development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.

(b) The first phase of the proposed development shall include the proposed pedestrian and cycle connection from the proposed development to Diswellstown Road.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

8. Upon completion of the proposed development, and prior to the taking in charge of the road infrastructure, the developer shall complete Stage 3 and 4 Road Safety Audits, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team and agreed in writing with the planning authority.

Reason: In the interest of pedestrian and traffic safety.

9. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) Details of all proposed hard surface and/or permeable surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the proposed development.

(b) Proposed locations of trees and other landscape planting in the proposed development, including details of proposed species and settings.

(c) Details of proposed street furniture, including bollards, lighting fixtures and seating.

(d) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

(e) Revised planting and boundary details for the eastern boundary to ensure appropriate screening of the Diswellstown Road.

(f) A revised landscaping plan showing provision of appropriate play space within the proposed public/communal open spaces.

(g) Revised layout and dimension details for the proposed attenuation/detention basin to ensure appropriate levels of safety for residents.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

10. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the proposed development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

11. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
Reason: In the interest of visual amenity and to ensure an appropriate standard of development

12. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the planning authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

(c) A final taking in charge drawing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of the development in the interest of residential amenity.

13. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.
Reason: To prevent flooding and in the interest of sustainable drainage.

14. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for service connection(s) to the public water supply and/or wastewater collection network.
Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

15. (a) An accurate tree and hedgerow survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree and hedgerow on site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which are proposed to be felled and those which are proposed to be retained.
(b) Measures for the protection of trees and hedgerows, which are proposed to be retained, shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.
Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity.

16. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing, with the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing. Such lighting shall be provided prior to the making available for occupation of any residential unit.
Reason: In the interest of amenity and public safety.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.
Reason: In the interest of visual and residential amenity.

18. The mitigation measures contained in the submitted Ecological Impact Assessment report shall be implemented in full.
Reason: To protect local biodiversity and habitats.

19. A final Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, tree and hedgerow protection, and project roles and responsibilities, arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery, the location for storage of deliveries to the site, tree and hedgerow protection, invasive species, and off-site disposal of construction/demolition waste.
Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

20. Prior to commencement of development, the developer, or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.
Reason: In the interest of proper planning and sustainable development.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

22. (a) Prior to the commencement of any house or duplex unit in the development, as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended that restricts all relevant houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

25. The developer shall pay to the planning authority a financial contribution as a contribution in lieu of the public open space requirement, in respect of public open space benefitting the development in the area of the planning authority to be provided or intended to be provided by or on behalf of the planning authority, in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The contribution payable shall be in lieu of the shortfall in public open space, to the required 15%, and shall be paid prior to the commencement of development, or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

26. The developer shall pay to the planning authority a financial contribution in respect of the re-opening of the Navan to Dublin Railway Line – Phase 1 - Clonsilla to Dunboyne (Pace) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

MaryRose McGovern
Planning Commissioner of An Coimisiún Pleanála duly authorised to authenticate the seal of the Commission.

Dated this 15th **day of** October **2026.**